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8 Sequenom, Inc.

9
10 **UNITED STATES DISTRICT COURT**
11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

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13
14 SEQUENOM, INC.,

15 Plaintiff,

16 v.

17 ARIA DIAGNOSTICS, INC.,

18 Defendant,

19 and

20 ISIS INNOVATION LIMITED,

21 Nominal Defendant.
22

Case No. '12CV0189 WQHBGS

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

23
24 Plaintiff SEQUENOM, INC. (“Sequenom”) for its complaint against Defendant ARIA
25 DIAGNOSTICS, INC. (“Aria”), and Nominal Defendant ISIS INNOVATION LIMITED (“Isis”),
26 alleges as follows:
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28

1 **NATURE OF THE ACTION**

2 1. This is an action under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*,
3 for infringement by Aria of a patent exclusively licensed by Sequenom from Isis.

4 **THE PARTIES**

5 2. Plaintiff Sequenom is a Delaware corporation with its principal place of business at
6 3595 John Hopkins Court, San Diego, California 92121.

7 3. On information and belief, Defendant Aria is a corporation incorporated under the
8 laws of the State of Delaware with a principal place of business at 5945 Optical Court, San Jose,
9 California 95138.

10 4. On information and belief, Defendant Aria has conducted business and research
11 activities relating to its infringing processes in this Judicial District, among other places.

12 5. Nominal Defendant Isis is a British company whose registered office is at
13 University Offices, Wellington Square, Oxford OX1 2JD, England. Isis is named as a nominal
14 defendant in this action for purposes of subject matter jurisdiction only and pursuant to the United
15 States Supreme Court’s holding in *Independent Wireless Tel. Co. v. Radio Corp. of Am.*, 269, U.S.
16 459, 468 (1926), that “[i]f the owner of a patent, being within the jurisdiction, refuses or is unable
17 to join an exclusive licensee as coplaintiff, the licensee may make him a party defendant by
18 process, and he will be lined up by the court in the party character which he should assume.”
19 Sequenom requested that Isis join as a party plaintiff in this action, but Isis has thus far not agreed
20 to do so. Although Isis is named as a nominal defendant, Sequenom seeks relief realigning Isis as a
21 plaintiff.

22 **JURISDICTION AND VENUE**

23 6. This Court has jurisdiction over the subject matter of this action pursuant to
24 28 U.S.C. §§ 1331 and 1338(a).

25 7. This Court has personal jurisdiction over Aria because Aria’s principal place of
26 business is in the State of California and it has purposely availed itself of the privilege of
27 conducting activities within this State and District.

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E. Award increased damages, pursuant to 35 U.S.C. § 284, in an amount not less than three times the amount of actual damages awarded to Sequenom, by reason of Aria’s willful infringement of the Patent-in-Suit;

F. Declare this case exceptional under 35 U.S.C. § 285 and award Sequenom its reasonable attorneys’ fees, expenses, and costs incurred in this action; and

G. Grant such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Sequenom hereby demands a jury trial on all issues appropriately triable by a jury.

Dated: January 24, 2012

KAYE SCHOLER LLP

By: s/ Michael J. Malecek

Michael J. Malecek
Attorneys for Plaintiff Sequenom, Inc.